

HOUSE BILL No. 1973

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-163; IC 16-19-3-28; IC 20-8.1-7-9.5.

Synopsis: Vaccination exemption and disclosure. Requires the state department of health to create and publish forms disclosing the risks and benefits of vaccines and to publish forms allowing an adult or a parent or guardian to exempt a child from receiving a vaccine. Requires a health care provider to provide a copy of the appropriate form to the parent or guardian of a child receiving a vaccine.

Effective: July 1, 2003.

Noe, Orentlicher

January 23, 2003, read first time and referred to Committee on Public Health.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1973

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-163, AS AMENDED BY P.L.148-1999,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 163. (a) "Health care provider", for purposes of
4 IC 16-21 and IC 16-41, means any of the following:

5 (1) An individual, a partnership, a corporation, a professional
6 corporation, a facility, or an institution licensed or legally
7 authorized by this state to provide health care or professional
8 services as a licensed physician, a psychiatric hospital, a hospital,
9 a health facility, an emergency ambulance service (IC 16-31-3),
10 a dentist, a registered or licensed practical nurse, a midwife, an
11 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical
12 therapist, a respiratory care practitioner, an occupational therapist,
13 a psychologist, a paramedic, an emergency medical technician, or
14 an advanced emergency technician, or a person who is an officer,
15 employee, or agent of the individual, partnership, corporation,
16 professional corporation, facility, or institution acting in the
17 course and scope of the person's employment.



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(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;

(2) a registered nurse;

(3) a licensed practical nurse;

(4) an advanced practice nurse;

(5) a licensed nurse midwife;

(6) a paramedic;

(7) an emergency medical technician;

(8) an advanced emergency medical technician; or

(9) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's

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employment.

(d) "Health care provider", for purposes of IC 16-19-3-28, has the meaning set forth in IC 16-19-3-28(a).

SECTION 2. IC 16-19-3-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) As used in this section, "health care provider" means an individual licensed or authorized by this state to provide health care or professional services as:

- (1) a licensed physician;
- (2) a registered nurse;
- (3) a licensed practical nurse; or
- (4) an advanced practice nurse.

(b) The state department shall create and publish, in English and Spanish:

- (1) a vaccination disclosure form for each vaccine administered as described in subsection (c); and
- (2) an exemption from vaccination form as described in subsection (d).

(c) The vaccination disclosure form that the state department shall create and publish, as required under subsection (b), must include an explanation of the:

- (1) risks, including:
 - (A) contraindications;
 - (B) warnings; and
 - (C) adverse reactions;
- listed in the manufacturer's package insert; and
- (2) benefits;

of each vaccine.

(d) The exemption from vaccination form that the state department shall create and publish, as required under subsection (b), must include:

- (1) an explanation of an adult's legal right to not receive a vaccination without the adult's voluntary written consent prior to the administration of a vaccination;
- (2) an explanation of a child's legal right to not receive a vaccination under:
 - (A) IC 20-8.1-7-2; and
 - (B) IC 20-8.1-7-2.5;
- without the written consent of the child's parent or guardian prior to the administration of a vaccination;
- (3) a signature line;
- (4) a date line;



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(5) options to claim an exemption under:

(A) IC 20-8.1-7-2;

(B) IC 20-8.1-7-2.5; and

(C) subdivision (1); and

(6) directions for a parent or guardian to file the exemption from vaccination form with:

(A) the child's teacher;

(B) the child's principal; or

(C) an individual who may order a vaccination absent an objection.

(e) The state department shall distribute the forms described in subsection (b) to a health care provider that provides vaccinations.

(f) Each health care provider that provides vaccinations shall provide a copy of the appropriate disclosure form and exemption from vaccination form listed in subsection (b) to:

(1) an adult; or

(2) the parent or guardian of a child;

receiving a vaccine prior to the administration of a vaccine. The health care provider shall read or explain the disclosure form if requested to do so by the adult or the parent or guardian of a child receiving the vaccination.

(g) An adult shall not be required to receive a vaccine without the adult's written voluntary consent. No civil or criminal penalties may be imposed upon an adult if the adult does not provide a written consent to receive a vaccine.

(h) No civil or criminal penalties may be imposed upon a parent or guardian of a child if the parent or guardian does not consent to the child receiving an immunization or a vaccine under:

(1) IC 20-8.1-7-2; or

(2) IC 20-8.1-7-2.5.

(i) The state department may impose a civil penalty not to exceed one hundred dollars (\$100) for a violation by a health care provider of a provision of this chapter.

(j) The state department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 3. IC 20-8.1-7-9.5, AS AMENDED BY P.L.231-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.5. (a) **Except as provided in subsection (f),** every child residing in Indiana shall be immunized **or vaccinated** against:

(1) diphtheria;

(2) pertussis (whooping cough);



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- (3) tetanus;
- (4) measles;
- (5) rubella;
- (6) poliomyelitis; and
- (7) mumps.

(b) **Except as provided in subsection (f)**, every child residing in Indiana who enters kindergarten or grade 1 shall be immunized against hepatitis B.

(c) The state department of health may expand or otherwise modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health.

(d) The state department of health shall adopt rules under IC 4-22-2 specifying the:

- (1) required immunizations;
- (2) child's age for administering each vaccine;
- (3) adequately immunizing doses; and
- (4) method of documentation of proof of immunity.

(e) Each school shall notify each parent of a child who enrolls in the school of the requirement that the child must be immunized and that the immunization is required for the child's continued enrollment, attendance, or residence at the school unless:

- (1) the parent or child provides the appropriate documentation of immunity; **or**
- (2) section 2 or 2.5 of this chapter applies; **or**
- (3) **subsection (f) applies.**

(f) The immunization or vaccination requirement under subsection (a) or subsection (b) is waived if a child's parent or guardian:

- (1) objects to an immunization or a vaccination for reasons stated in sections 2 and 2.5 of this chapter;**
- (2) fills out an exemption from vaccination form provided by the state department of health under IC 16-19-3-28; and**
- (3) files the exemption from vaccination form with:**
 - (A) the child's teacher;**
 - (B) the child's principal; or**
 - (C) an individual who may order a vaccination absent an objection.**

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